

AMENDED IN SENATE AUGUST 19, 2013

AMENDED IN SENATE JULY 10, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 266**

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**Introduced by Assembly Members Blumenfield and Bloom**

February 7, 2013

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An act to amend Section 21655.9 of, and to amend and repeal Section 5205.5 of, the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 266, as amended, Blumenfield. Vehicles: high-occupancy vehicle lanes.

*Existing federal law authorizes, until September 30, 2017, a state to allow specified labeled vehicles to use lanes designated for high-occupancy vehicles (HOVs).*

Existing *state* law authorizes the Department of Transportation to designate certain lanes for the exclusive use of ~~high-occupancy vehicles (HOVs)~~, HOVs, which lanes may also be used, until January 1, 2015, or until the Secretary of State receives a specified notice, by certain low-emission, hybrid, or alternative fuel vehicles not carrying the requisite number of passengers otherwise required for the use of an HOV lane, if the vehicle displays a valid identifier issued by the Department of Motor Vehicles. A violation of provisions relating to HOV lane use by vehicles with those identifiers is a crime.

This bill would extend the operation of those provisions for certain low-emission vehicles to January 1, 2019, ~~or~~, *or until federal authorization expires, or until the Secretary of State receives that*

specified notice, whichever occurs first. The bill would until January 1, 2015, or until the Secretary of State receives that specified notice, authorize the department to issue a valid identifier to a vehicle that meets California's transitional zero-emission vehicle (TZEV) standard. The bill would also repeal duplicate provisions of law, delete obsolete provisions of law relating to hybrid vehicles, and make additional conforming changes.

By extending a crime that otherwise would be inoperative, the bill would impose a state-mandated local program.

This bill would incorporate additional substantive changes in Sections 5205.5 and 21655.9 of the Vehicle Code made by SB 286, to become operative if SB 286 and this bill become effective on or before January 1, 2014, and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The bill would become operative only if SB 286 is enacted and takes effect on or before January 1, 2014.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5205.5 of the Vehicle Code, as amended  
2 by Section 2 of Chapter 674 of the Statutes of 2012, is amended  
3 to read:  
4 5205.5. (a) For purposes of implementing Section 21655.9,  
5 the department shall make available for issuance, for a fee  
6 determined by the department to be sufficient to reimburse the  
7 department for the actual costs incurred pursuant to this section,  
8 distinctive decals, labels, and other identifiers that clearly  
9 distinguish the following vehicles from other vehicles:  
10 (1) A vehicle that meets California's super ultra-low emission  
11 vehicle (SULEV) standard for exhaust emissions and the federal  
12 inherently low-emission vehicle (ILEV) evaporative emission  
13 standard, as defined in Part 88 (commencing with Section  
14 88.101-94) of Title 40 of the Code of Federal Regulations.

1 (2) A vehicle that was produced during the 2004 model-year or  
2 earlier and meets California ultra-low emission vehicle (ULEV)  
3 standard for exhaust emissions and the federal ILEV standard.

4 (3) A vehicle that meets California's enhanced advanced  
5 technology partial zero-emission vehicle (enhanced AT PZEV)  
6 standard or transitional zero-emission vehicle (TZEV) standard.

7 (b) The department shall include a summary of the provisions  
8 of this section on each motor vehicle registration renewal notice,  
9 or on a separate insert, if space is available and the summary can  
10 be included without incurring additional printing or postage costs.

11 (c) The Department of Transportation shall remove individual  
12 HOV lanes, or portions of those lanes, during periods of peak  
13 congestion from the access provisions provided in subdivision (a),  
14 following a finding by the Department of Transportation as follows:

15 (1) The lane, or portion thereof, exceeds a level of service C,  
16 as discussed in subdivision (b) of Section 65089 of the Government  
17 Code.

18 (2) The operation or projected operation of the vehicles  
19 described in subdivision (a) in these lanes, or portions thereof, will  
20 significantly increase congestion.

21 (3) The finding shall also demonstrate the infeasibility of  
22 alleviating the congestion by other means, including, but not  
23 limited to, reducing the use of the lane by noneligible vehicles or  
24 further increasing vehicle occupancy.

25 (d) The State Air Resources Board shall publish and maintain  
26 a listing of all vehicles eligible for participation in the programs  
27 described in this section. The board shall provide that listing to  
28 the department.

29 (e) (1) For purposes of subdivision (a), the Department of the  
30 California Highway Patrol and the department, in consultation  
31 with the Department of Transportation, shall design and specify  
32 the placement of the decal, label, or other identifier on the vehicle.  
33 Each decal, label, or other identifier issued for a vehicle shall  
34 display a unique number, which number shall be printed on, or  
35 affixed to, the vehicle registration.

36 (2) Decals, labels, or other identifiers designed pursuant to this  
37 subdivision for a vehicle described in paragraph (3) of subdivision  
38 (a) shall be distinguishable from the decals, labels, or other  
39 identifiers that are designed for vehicles described in paragraphs  
40 (1) and (2) of subdivision (a).

(f) (1) Except as provided in paragraph (2), for purposes of paragraph (3) of subdivision (a), the department shall issue no more than 40,000 distinctive decals, labels, or other identifiers that clearly distinguish a vehicle specified in paragraph (3) of subdivision (a).

(2) The department may issue a decal, label, or other identifier for a vehicle that satisfies all of the following conditions:

(A) The vehicle is of a type identified in paragraph (3) of subdivision (a).

(B) The owner of the vehicle is the owner of a vehicle for which a decal, label, or other identifier described in paragraph (1) was previously issued and that vehicle for which the decal, label, or other identifier was previously issued is determined by the department, on the basis of satisfactory proof submitted by the owner to the department, to be a nonrepairable vehicle or a total loss salvage vehicle.

(C) The owner of the vehicle applied for a decal, label, or other identifier pursuant to this paragraph within six months of the date on which the vehicle for which a decal, label, or other identifier was previously issued is declared to be a nonrepairable vehicle or a total loss salvage vehicle.

(g) If the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under its jurisdiction to a vehicle pursuant to Section 30102.5 of the Streets and Highways Code, it shall also grant the same toll-free and reduced-rate passage to a vehicle displaying an identifier issued by the department pursuant to paragraph (1) or (2) of subdivision (a).

(h) (1) Notwithstanding Section 21655.9, and except as provided in paragraph (2), a vehicle described in subdivision (a) that displays a decal, label, or identifier issued pursuant to this section shall be exempt from toll charges imposed on single-occupant vehicles in high-occupancy toll lanes as described in Section 149.7 of the Streets and Highways Code unless prohibited by federal law.

(2) (A) Paragraph (1) does not apply to the imposition of a toll imposed for passage on a toll road or toll highway, that is not a high-occupancy toll lane as described in Section 149.7 of the Streets and Highways Code.

1 (B) On or before March 1, 2014, paragraph (1) does not apply  
2 to the imposition of a toll imposed for passage in lanes designated  
3 for tolls pursuant to the federally supported value pricing and  
4 transit development demonstration program operated pursuant to  
5 Section 149.9 of the Streets and Highways Code for State Highway  
6 Route 10 or 110.

7 (C) Paragraph (1) does not apply to the imposition of a toll  
8 charged for crossing a state-owned bridge.

9 (i) If the Director of Transportation determines that federal law  
10 does not authorize the state to allow vehicles that are identified by  
11 distinctive decals, labels, or other identifiers on vehicles described  
12 in subdivision (a) to use highway lanes or highway access ramps  
13 for high-occupancy vehicles regardless of vehicle occupancy, the  
14 Director of Transportation shall submit a notice of that  
15 determination to the Secretary of State.

16 (j) (1) This section shall not apply to a vehicle described in  
17 paragraph (3) of subdivision (a) on or after January 1, 2015, or the  
18 date that the Secretary of State receives the notice described in  
19 subdivision (i), whichever occurs first.

20 (2) This section shall become inoperative on January 1, 2019,  
21 *or the date the federal authorization pursuant to Section 166 of*  
22 *Title 23 of the United States Code expires*, ~~or on~~ the date that the  
23 Secretary of State receives the notice described in subdivision (i),  
24 whichever occurs first, and, as of January 1, 2019, is repealed,  
25 unless a later enacted statute, that becomes operative on or before  
26 January 1, 2019, deletes or extends the dates on which it becomes  
27 inoperative and is repealed.

28 SEC. 1.5. Section 5205.5 of the Vehicle Code, as amended by  
29 Section 2 of Chapter 674 of the Statutes of 2012, is amended to  
30 read:

31 5205.5. (a) For purposes of implementing Section 21655.9,  
32 the department shall make available for issuance, for a fee  
33 determined by the department to be sufficient to reimburse the  
34 department for the actual costs incurred pursuant to this section,  
35 distinctive decals, labels, and other identifiers that clearly  
36 distinguish the following vehicles from other vehicles:

37 (1) A vehicle that meets California's super ultra-low emission  
38 vehicle (SULEV) standard for exhaust emissions and the federal  
39 inherently low-emission vehicle (ILEV) evaporative emission

1 standard, as defined in Part 88 (commencing with Section  
2 88.101-94) of Title 40 of the Code of Federal Regulations.

3 (2) A vehicle that was produced during the 2004 model-year or  
4 earlier and meets California ultra-low emission vehicle (ULEV)  
5 standard for exhaust emissions and the federal ILEV standard.

6 (3) A vehicle that meets California's enhanced advanced  
7 technology partial zero-emission vehicle (enhanced AT PZEV)  
8 standard or transitional zero emission vehicle (TZEV) standard.

9 (b) The department shall include a summary of the provisions  
10 of this section on each motor vehicle registration renewal notice,  
11 or on a separate insert, if space is available and the summary can  
12 be included without incurring additional printing or postage costs.

13 (c) The Department of Transportation shall remove individual  
14 HOV lanes, or portions of those lanes, during periods of peak  
15 congestion from the access provisions provided in subdivision (a),  
16 following a finding by the Department of Transportation as follows:

17 (1) The lane, or portion thereof, exceeds a level of service C,  
18 as discussed in subdivision (b) of Section 65089 of the Government  
19 Code.

20 (2) The operation or projected operation of the vehicles  
21 described in subdivision (a) in these lanes, or portions thereof, will  
22 significantly increase congestion.

23 (3) The finding shall also demonstrate the infeasibility of  
24 alleviating the congestion by other means, including, but not  
25 limited to, reducing the use of the lane by noneligible vehicles or  
26 further increasing vehicle occupancy.

27 (d) The State Air Resources Board shall publish and maintain  
28 a listing of all vehicles eligible for participation in the programs  
29 described in this section. The board shall provide that listing to  
30 the department.

31 (e) (1) For purposes of subdivision (a), the Department of the  
32 California Highway Patrol and the department, in consultation  
33 with the Department of Transportation, shall design and specify  
34 the placement of the decal, label, or other identifier on the vehicle.  
35 Each decal, label, or other identifier issued for a vehicle shall  
36 display a unique number, which number shall be printed on, or  
37 affixed to, the vehicle registration.

38 (2) Decals, labels, or other identifiers designed pursuant to this  
39 subdivision for a vehicle described in paragraph (3) of subdivision

40 (a) shall be distinguishable from the decals, labels, or other

1 identifiers that are designed for vehicles described in paragraphs  
2 (1) and (2) of subdivision (a).

3 (f) (1) Except as provided in paragraph (2), for purposes of  
4 paragraph (3) of subdivision (a), the department shall issue no  
5 more than 40,000 distinctive decals, labels, or other identifiers that  
6 clearly distinguish a vehicle specified in paragraph (3) of  
7 subdivision (a).

8 (2) The department may issue a decal, label, or other identifier  
9 for a vehicle that satisfies all of the following conditions:

10 (A) The vehicle is of a type identified in paragraph (3) of  
11 subdivision (a).

12 (B) The owner of the vehicle is the owner of a vehicle for which  
13 a decal, label, or other identifier described in paragraph (1) was  
14 previously issued and that vehicle for which the decal, label, or  
15 other identifier was previously issued is determined by the  
16 department, on the basis of satisfactory proof submitted by the  
17 owner to the department, to be a nonrepairable vehicle or a total  
18 loss salvage vehicle.

19 (C) The owner of the vehicle applied for a decal, label, or other  
20 identifier pursuant to this paragraph within six months of the date  
21 on which the vehicle for which a decal, label, or other identifier  
22 was previously issued is declared to be a nonrepairable vehicle or  
23 a total loss salvage vehicle.

24 (g) If the Metropolitan Transportation Commission, serving as  
25 the Bay Area Toll Authority, grants toll-free and reduced-rate  
26 passage on toll bridges under its jurisdiction to a vehicle pursuant  
27 to Section 30102.5 of the Streets and Highways Code, it shall also  
28 grant the same toll-free and reduced-rate passage to a vehicle  
29 displaying an identifier issued by the department pursuant to  
30 paragraph (1) or (2) of subdivision (a).

31 (h) (1) Notwithstanding Section 21655.9, and except as  
32 provided in paragraph (2), a vehicle described in subdivision (a)  
33 that displays a decal, label, or identifier issued pursuant to this  
34 section shall be exempt from toll charges imposed on  
35 single-occupant vehicles in high-occupancy toll lanes as described  
36 in Section 149.7 of the Streets and Highways Code unless  
37 prohibited by federal law.

38 (2) (A) Paragraph (1) does not apply to the imposition of a toll  
39 imposed for passage on a toll road or toll highway, that is not a

1 high-occupancy toll lane as described in Section 149.7 of the  
2 Streets and Highways Code.

3 (B) On or before March 1, 2014, paragraph (1) does not apply  
4 to the imposition of a toll imposed for passage in lanes designated  
5 for tolls pursuant to the federally supported value pricing and  
6 transit development demonstration program operated pursuant to  
7 Section 149.9 of the Streets and Highways Code for State Highway  
8 Route 10 or 110.

9 (C) Paragraph (1) does not apply to the imposition of a toll  
10 charged for crossing a state-owned bridge.

11 (i) If the Director of Transportation determines that federal law  
12 does not authorize the state to allow vehicles that are identified by  
13 distinctive decals, labels, or other identifiers on vehicles described  
14 in subdivision (a) to use highway lanes or highway access ramps  
15 for high-occupancy vehicles regardless of vehicle occupancy, the  
16 Director of Transportation shall submit a notice of that  
17 determination to the Secretary of State.

18 (j) This section shall become inoperative on January 1, 2019,  
19 *or the date the federal authorization pursuant to Section 166 of*  
20 *Title 23 of the United States Code expires, or on* the date that the  
21 Secretary of State receives the notice described in subdivision (i),  
22 whichever occurs first, and, as of January 1, 2019, is repealed,  
23 unless a later enacted statute, that becomes operative on or before  
24 January 1, 2019, deletes or extends the dates on which it becomes  
25 inoperative and is repealed.

26 SEC. 2. Section 5205.5 of the Vehicle Code, as added by  
27 Section 1 of Chapter 37 of the Statutes of 2010, is repealed.

28 SEC. 3. Section 21655.9 of the Vehicle Code is amended to  
29 read:

30 21655.9. (a) (1) Whenever the Department of Transportation  
31 or a local authority authorizes or permits exclusive or preferential  
32 use of highway lanes or highway access ramps for high-occupancy  
33 vehicles pursuant to Section 21655.5, the use of those lanes or  
34 ramps shall also be extended to vehicles that are issued distinctive  
35 decals, labels, or other identifiers pursuant to Section 5205.5  
36 regardless of vehicle occupancy or ownership.

37 (2) A local authority during periods of peak congestion shall  
38 suspend for a lane the access privileges extended pursuant to  
39 paragraph (1) for those vehicles issued distinctive decals, labels,  
40 or other identifiers pursuant to Section 5205.5, if a periodic review



1 of lane performance by that local authority discloses both of the  
2 following factors regarding the lane:

3 (A) The lane, or a portion of the lane, exceeds a level of service  
4 C, as described in subdivision (b) of Section 65089 of the  
5 Government Code.

6 (B) The operation or projected operation of vehicles in the lane,  
7 or a portion of the lane, will significantly increase congestion.

8 (b) A person shall not drive a vehicle described in subdivision  
9 (a) of Section 5205.5 with a single occupant upon a high-occupancy  
10 vehicle lane pursuant to this section unless the decal, label, or other  
11 identifier issued pursuant to Section 5205.5 is properly displayed  
12 on the vehicle, and the vehicle registration described in Section  
13 5205.5 is with the vehicle.

14 (c) A person shall not operate or own a vehicle displaying a  
15 decal, label, or other identifier, as described in Section 5205.5, if  
16 that decal, label, or identifier was not issued for that vehicle  
17 pursuant to Section 5205.5. A violation of this subdivision is a  
18 misdemeanor.

19 (d) If the provisions in Section 5205.5 authorizing the  
20 department to issue decals, labels, or other identifiers to hybrid  
21 and alternative fuel vehicles are repealed, vehicles displaying those  
22 decals, labels, or other identifiers shall not access high-occupancy  
23 vehicle lanes without meeting the occupancy requirements  
24 otherwise applicable to those lanes.

25 (e) (1) This section shall not apply to a vehicle described in  
26 paragraph (3) of subdivision (a) of Section 5205.5 on or after  
27 January 1, 2015, or the date that the Secretary of State receives  
28 the notice described in subdivision (i) of Section 5205.5, whichever  
29 occurs first.

30 (2) This section shall become inoperative on January 1, 2019,  
31 *or the date federal authorization pursuant to Section 166 of Title*  
32 *23 of the United States Code expires, or on the date that the*  
33 *Secretary of State receives the notice described in subdivision (i)*  
34 *of Section 5205.5, whichever occurs first, and, as of January 1,*  
35 *2019, is repealed, unless a later enacted statute, that becomes*  
36 *operative on or before January 1, 2019, deletes or extends the dates*  
37 *on which it becomes inoperative and is repealed.*

38 SEC. 3.5. Section 21655.9 of the Vehicle Code is amended to  
39 read:

1     21655.9. (a) (1) Whenever the Department of Transportation  
2     or a local authority authorizes or permits exclusive or preferential  
3     use of highway lanes or highway access ramps for high-occupancy  
4     vehicles pursuant to Section 21655.5, the use of those lanes or  
5     ramps shall also be extended to vehicles that are issued distinctive  
6     decals, labels, or other identifiers pursuant to Section 5205.5  
7     regardless of vehicle occupancy or ownership.

8     (2) A local authority during periods of peak congestion shall  
9     suspend for a lane the access privileges extended pursuant to  
10    paragraph (1) for those vehicles issued distinctive decals, labels,  
11    or other identifiers pursuant to Section 5205.5, if a periodic review  
12    of lane performance by that local authority discloses both of the  
13    following factors regarding the lane:

14    (A) The lane, or a portion of the lane, exceeds a level of service  
15    C, as described in subdivision (b) of Section 65089 of the  
16    Government Code.

17    (B) The operation or projected operation of vehicles in the lane,  
18    or a portion of the lane, will significantly increase congestion.

19    (b) A person shall not drive a vehicle described in subdivision  
20    (a) of Section 5205.5 with a single occupant upon a high-occupancy  
21    vehicle lane pursuant to this section unless the decal, label, or other  
22    identifier issued pursuant to Section 5205.5 is properly displayed  
23    on the vehicle, and the vehicle registration described in Section  
24    5205.5 is with the vehicle.

25    (c) A person shall not operate or own a vehicle displaying a  
26    decal, label, or other identifier, as described in Section 5205.5, if  
27    that decal, label, or identifier was not issued for that vehicle  
28    pursuant to Section 5205.5. A violation of this subdivision is a  
29    misdemeanor.

30    (d) If the provisions in Section 5205.5 authorizing the  
31    department to issue decals, labels, or other identifiers to hybrid  
32    and alternative fuel vehicles are repealed, vehicles displaying those  
33    decals, labels, or other identifiers shall not access high-occupancy  
34    vehicle lanes without meeting the occupancy requirements  
35    otherwise applicable to those lanes.

36    (e) This section shall become inoperative on January 1, 2019,  
37    or the date the federal authorization pursuant to Section 166 of  
38    Title 23 of the United States Code expires, or on the date that the  
39    Secretary of State receives the notice described in subdivision (i)  
40    of Section 5205.5, whichever occurs first, and, as of January 1,

2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. (a) Section 1.5 of this bill incorporates substantive amendments to Section 5205.5 of the Vehicle Code proposed by both this bill and Senate Bill 286. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 5205.5 of the Vehicle Code, and (3) this bill is enacted after Senate Bill 286, in which case Section 1 of this bill shall not become operative.

(b) Section 3.5 of this bill incorporates substantive amendments to Section 21655.9 of the Vehicle Code proposed by both this bill and Senate Bill 286. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 21655.9 of the Vehicle Code, and (3) this bill is enacted after Senate Bill 286, in which case Section 3 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. *This act shall become operative only if Senate Bill 286 is enacted and becomes effective on or before January 1, 2014.*